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Volume 97 | Issue 3

Article 8

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April 1995

# W Stories: Women in Leadership Positions in the Judiciary

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*United States Court of Appeals for the Tenth Circuit*

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## Recommended Citation

Deanell R. Tacha, *W Stories: Women in Leadership Positions in the Judiciary*, 97 W. Va. L. Rev. (1995).

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## **“W” STORIES: WOMEN IN LEADERSHIP POSITIONS IN THE JUDICIARY**

DEANELL REECE TACHA\*

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### **I. INTRODUCTION**

I decided to go to law school some time during the dark and cold winter of 1968. In my undergraduate living group I was surrounded by women whose horizons seemed circumscribed by the restricted opportunities apparently open to women at that time: the valuable, but traditional, occupations of nursing, teaching, and homemaking. Something within me told me that I aspired to do something different. It is humorous to me now that I took the MCAT, LSAT, and GRE that winter — all without ever telling any of those people closest to me. As I look back on that agonizing senior year, I realize that my confusion resulted from the multitude of my own aspirations, the plethora of my dreams, and the absence of any visible women who had chosen career paths other than those traditionally open to women. I now understand that a part of my anguish derived from trying to piece together my professional and personal life without patterns to guide me. I was muddled in the confusion of a successful undergraduate career, opportunities for personal commitments, the end of college in sight, and a glimmer — without any perceptible outlines — of a broad horizon of possibilities ahead of me.

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I shall never forget the night that I called my parents, who live in a small town in central Kansas, and told them that I had decided to go to law school. My father is a highway contractor. His experience with lawyers, all of whom were men, had been anything but pleasant. I expected resistance but I received only silence from the other end of the telephone line. Puzzled but relieved, I continued my evening's activities and went to bed. Very early the next morning, about the time it took to drive from my home to my university residence hall, the housemother woke me and told me my father was at the door and wished to see me. During the next few hours my father attempted, for all the right reasons, to talk me out of that foolhardy decision to pursue a career in the law. He did so out of the best of motives and, I know now, because he was also the victim of never having seen the possibility of a woman achieve success in the legal profession. So few had done so at that time. His arguments focused on why a young woman who showed the potential to succeed at any number of endeavors would choose a course in which the barriers seemed insurmountable. Like any loving parent, he gave little thought to what was fair or right or just; he cared only that I provide myself with the fullest array of opportunities that were available at the time. In 1968, the law did not seem to be one of those opportunities. But I remained steadfast in my determination to go to law school. My father was never — and may still not be — convinced that I did the right thing. Now, however, his objections relate more to lawyers in general and less to the law's inhospitality to women.

The world changed dramatically during the three years that I was in law school. Many men went off to Vietnam, and many women took their places in the law schools of the nation. We faced, and continue to face, some barriers and stereotypes that are difficult to put to rest in a twenty-five year period. I would be naive indeed if I suggested that all of those barriers and stereotypes had disappeared with the ever-increasing numbers of women in the legal profession. Nonetheless, today the landscape looks far different than it did when I tried to find a pattern after which to fashion a life that I knew with certainty must combine both a vigorous professional commitment and a dedicated family and marriage commitment. Today I look around me and see

hundreds of patterns for achieving the combination that I sought twenty-five years ago.

I relate the vignette about my decision to go to law school for two purposes. The first is to highlight how recent the history is. My experience was less than three decades ago. To me, it seems like a flash. The second, and the one upon which I will focus in this Essay, is the rather remarkable extent to which things have changed in that short period of time. My niche in the legal profession is in the judiciary. From this vantage point, I have had the opportunity to witness an array of women, with an equally broad array of styles, bring to the judicial branch of government the full measure of their talents, energy, and dedication. Women have moved into influential leadership positions in the federal and state judiciary, thereby leaving their imprints on the course of the third branch of government. It has been my proud privilege to observe firsthand these extraordinary women who are proving not only that we can be great lawyers and great judges, but that we can complement and add new dimensions to the work of our male colleagues. The contributions of these judges is especially noteworthy at a time when the judiciary, and the legal system as a whole, has a pressing need to look at new ways of approaching our work and new ways of thinking about litigation, caseloads, equitable criminal justice, and the protection of a government of laws. A quick survey of the leadership of the judiciary of this nation confirms the view that women have moved quickly and effectively into some of the highest leadership positions and are making a difference for the benefit of all — male and female alike.

I am honored by the opportunity to participate in this centennial observance. I was asked by the West Virginia University College of Law to reflect upon my experiences as a woman in the judiciary. In this Essay, I unabashedly highlight the work of my women colleagues. Although women judges are the focus of this Essay, I find among my male counterparts the same traits of loyalty, dedication, extraordinary talent, and spirit of public service that defines the women I write about here. I wish not to overlook the fact that for two centuries, a judiciary that was composed mostly of men safeguarded, with the highest degree of integrity, a court system that today is the symbol of freedom throughout the world. The quality of their intellects and the openness

with which they approach their jobs is perhaps best proved by the startling speed with which they have allowed, and indeed encouraged, women to assume leadership positions throughout the judiciary. So I undertake this task with the full knowledge that such leadership opportunities are only possible when the current leaders display confidence, respect, and some personal forbearance to allow new names and new faces to emerge as leaders. I also cannot resist the temptation to say that there is little doubt that the men are happy to share some of the time commitments and responsibilities with the women who are emerging as leaders.

Before I begin, I also apologize to the many women judges throughout the nation that I have failed to recognize explicitly. The risk of an essay like this is the sure knowledge that many deserving people will escape mention. One of the most valuable benefits I have received since becoming a judge is the host of friends that I have made. Among these are many women who have helped me pattern my own life. I cannot highlight all of them in this short piece. Let me simply say that I am deeply indebted to all those judges, but especially to those women judges, who have helped me pattern a life that is professionally satisfying and has also allowed me to be a wife and mother.

## II. WOMEN IN LEADERSHIP POSITIONS: WHO ARE THEY?

The American public no doubt knows the name of the Chief Justice of the Supreme Court of the United States and, hopefully, the names of one or more chief justices of state supreme courts. Beyond that, the leadership of the judicial branch is perhaps one of the least well known aspects of government and public life in this country. Whereas public attention is often focused on chairs of important legislative committees or particular cabinet members, the work of the judiciary is carried out largely without any significant public attention to its leadership. Thus, the remarkable degree to which women are serving in those leadership positions also is not likely to receive much attention. The judiciary has been, however, arguably the most receptive of the three branches of government to women in leadership positions. One cannot equate the various levels of leadership in the three branch-

es, but there is plenty of evidence that the judiciary is doing very well in this regard.

The federal judiciary is governed by the Judicial Conference of the United States. The Chief Justice of the United States Supreme Court is Chair of the Judicial Conference. The Conference is composed of the chief circuit judge of each of the circuits and one district court representative elected by the district judges in each circuit. The work of the Conference is based largely on the work of several standing committees within the Judicial Conference. In 1994, the Judicial Conference had twenty-five standing committees; six of these were chaired by women. From 1990 to 1994, I had the privilege of serving as Chair of the Judicial Conference Committee on the Judicial Branch. This committee considers matters related to the welfare of judges, with particular emphasis on compensation and various forms of benefits and support.

At the same time that I chaired that committee, Judge Ann Williams of the United States District Court for the Northern District of Illinois chaired the Committee on Court Administration and Case Management, which has the important ongoing responsibility of keeping the administration of the federal courts abreast with its ever-increasing caseload, the technological developments, and innovations that can assist both qualitatively and quantitatively in moving the courts forward and facilitating the work of judges and court personnel. During a year in which a new crime bill was considered and enacted in Congress, there was perhaps no more important committee than the Committee on Criminal Law, which was chaired by Judge Maryanne Trump Barry. Judge Barry brought her experience as a District Court Judge in New Jersey and her decisive and persuasive style to the tough questions that confronted that committee. Judge Barry collaborated closely both with members of Congress and with judges as she worked to appropriately and thoughtfully express the concerns of the judiciary about the effects of proposed crime legislation on the federal judiciary. I observed Judge Barry on numerous occasions as she talked with members of Congress, addressing issues of crucial importance to judges. Her commanding presence and insightful grasp of criminal law issues were invaluable in articulating the position of the Judicial Conference of the United States.

Judge Rya Zobel of the United States District Court for the District of Massachusetts chaired the Committee on Automation and Technology, which is helping the judiciary and Congress struggle with the question of how the federal court system is to keep pace with the explosion of automated technology. Many judges must relearn their research and word-processing skills in the wake of these technological advances. More importantly, our court clerks and staffs are confronted with the imperative of automating case data, docket sheets, and the host of information that accompanies a complex and expanding caseload. Judge Zobel was not born into the information age, but she is without question one of the judiciary's most knowledgeable leaders in the effort to bring the court system into the next century of technology. She was recently selected to be the Director of the Federal Judicial Center.

Judge Carolyn Dimmick of the Western District of Washington, as Chair of the Committee on Judicial Resources, was responsible for leading a sensitive and potentially divisive debate among federal judges over the issues of the addition of new judges in the federal circuit courts and the implications of size for the functioning of appellate courts. Her diplomatic, purposeful, and knowledgeable handling of the discussions promoted robust and thoughtful consideration of the issues. Judge Alicemarie Stotler of the Central District of California chaired the Committee on Rules of Practice and Procedure. She brought to her responsibilities a thorough working knowledge of existing rules and a responsive willingness to consider new approaches, to say nothing of a quick wit that alleviated the tedium of that quagmire of rule proposals.

The Judicial Conference of the United States meets twice each year. At each of these meetings, the members of the Conference sit at a large table in the Supreme Court Conference Room and the Committee Chairs sit behind the main conference table. It is awe-inspiring to look around that room and see so many women in prominent positions. Between these Judicial Conference meetings, a substantial amount of the work of the Conference is delegated to the Executive Committee. I vividly remember my first Judicial Conference meeting, at which I became aware that a member of the Executive Committee was a woman. Judge Sarah Evans Barker, now Chief Judge of the United States District Court for the Southern District of Indiana, represented her

circuit as a district judge and was a member of the Executive Committee. I remember clearly her forthright and lively welcome to me at my first meeting of the Conference, and her pithy, straightforward analysis of issues that came before the Conference. Though I was not a part of the Executive Committee, it was clear to me that she was an active and important contributor to the work of that group. As I came to know Sarah, I learned that she has four children (as I do), many pets, a household that demands attentive care, and a full set of community responsibilities. At the same time, she commands the respect of the judiciary of the nation.

All of these committee chairs were appointed by the Chief Justice of the United States Supreme Court, William H. Rehnquist. I would not presume to speculate on the reasons for the appointments, but I feel confident that those appointments were made after consultation with many people in the judiciary, men and women alike, and that they reflected a commitment to equality of opportunity and an expansive view of channelling interests and utilizing talents.

A discussion of the work of the Judicial Conference of the United States would be incomplete without mention of the women who have served on the Conference by virtue of their positions as Chief Judges of Circuits. Judge Pat Wald of the District of Columbia Circuit Court of Appeals is well known for her leadership abilities, articulate advocacy on behalf of particular issues, and effective scholarly presentations. Her considerable experience, insightful scholarly approach, and pragmatic understanding made her a valuable member of the Conference. Chief Judge Helen Nies served for several years as Chief Judge of the Federal Circuit. The unique posture of the Federal Circuit made her an important spokesperson on issues of particular relevance to that court. She served with distinction and dedication. Today, two chief judges of circuits are women. Chief Judge Dolores Sloviter of the Third Circuit plays an active role in the Conference and is credited by many with making substantial changes in the administration of the Third Circuit. One of my best friends is also chief judge of my circuit. Judge Stephanie Seymour was Chairman of the Judicial Conference Committee on Defender Services prior to her tenure as Chief Judge of the Tenth Circuit. As the committee chair of that important committee, which is concerned with adequate representation for indigent criminal defendants



in the federal system, Judge Seymour vigorously studied and pursued innovative approaches to improvements in the criminal justice system. She was rewarded by the public defenders with a citation recognizing her remarkable contributions in this area. As Chief Judge of the Tenth Circuit, she brings a humane but firm and thoroughly engaged style of leadership.

With her own distinct style, each of these women is very effective. Each has had a positive and lasting effect on the federal judiciary. They are no different in this respect from many of their male counterparts. They are different only in that they represent a significant change in the composition of the leadership of the third branch of government.

Although I am less familiar with state judiciaries, I am aware that many women are providing leadership in state judiciaries. Most notable is Justice Rosalie Wahl of the Supreme Court of Minnesota. A historic event in the history of the judiciary occurred during her tenure as Chief Justice. For the first time in the history of the nation, a court of last resort was composed of a majority of women. I have not studied the opinions of that court to determine if there was any discernible change in the pattern of voting or other qualitative effect on the work of the court. But I doubt that the outcomes were affected at all by the gender of the members of the court. Someone will no doubt undertake such a study and manage to put some "spin" on the opinions. I suspect that business went on as usual, but that the landscape for young women looked a bit different; opportunities seemed more real, and perhaps justice seemed a bit more equally shared between men and women.

After a disturbing incident involving the prior Chief Judge of the New York Court of Appeals, Judge Judith Kaye was appointed Chief Judge. At a time when that court needed strong leadership and renewed attention to respect for the judiciary, Judge Kaye provided both in hefty dimensions. She brought to that position almost uniform respect throughout the state and federal judiciaries and among the people of the State of New York. She also brought administrative talents, a calm judicial temperament, and a vigorous intellect to her duties. Her warmth, commitment to the people that she serves, and unstinting hard work render her a credit to the entire judiciary.

State court judges also have carved out important niches in scholarship, education, and administration. One of the country's preeminent scholars on state constitutions is Justice Christine Durham of the Supreme Court of Utah. Her work on state constitutions, and the interplay of those constitutions with the federal constitution, has provided important insights to academics, judges, and lawyers. Many women judges are recognized as outstanding judicial educators. Justice Elizabeth Lacy of the Supreme Court of Virginia has served on the faculties of the National Judicial College in Reno, the Institute of Judicial Administration in New York, and a host of continuing education programs for judges throughout the nation. She is recognized in the federal and state judiciaries as one of the true leaders in judicial education. Judge Mary Beck Briscoe, Chief Judge of the Court of Appeals for the State of Kansas, was responsible for initiating a host of administrative changes that have significantly improved the ability of that court to stay current with its caseload and to process more efficiently claims that come before it.

### III. RELATED ORGANIZATIONS

Judges are active in many organizations that are related to legal education, the administration of justice, and law-related activities. The reasons that women join these organizations are no doubt no different than the reasons that men join. I sense among some of my female counterparts, however, a strong commitment to ensuring that women are adequately involved in all the organizations that are concerned with the legal profession. Women judges may feel compelled by the need to bring different voices to the policymaking tables. They also may feel, implicitly or explicitly, the need to make certain that younger women in the profession are aware of the active involvement of those women judges who have reached leadership positions. I am convinced, moreover, that one of the reasons for the active involvement of a substantial number of women judges in law-related organizations is the value placed on connection: learning from colleagues around the country, and, because we are largely new to the judiciary, an openness to new ways of doing business.

My personal observation is that women are more than proportionately represented in leadership positions in these organizations. If this is true, and I do not pretend to have statistical documentation, it is difficult to generalize about the reasons. I can only reflect on my own reasons for becoming involved in organizations that are not directly tied to the judiciary but are issues of importance to judges. I did not belong to the American Bar Association (ABA) until I became a judge, except by virtue of my academic affiliation. When I was appointed to the bench, I made a conscious decision to become involved actively with bar associations and other organizations through which I would have an opportunity to interact appropriately with lawyers and other judges on issues of common concern. I chose to become active in the ABA. Although there have been numerous occasions on which that affiliation was an uncomfortable one,<sup>1</sup> I remain convinced that lawyers and judges must have a forum in which they can ethically and responsibly address professional issues that affect each profoundly.

Hundreds of women judges are involved in active participation in the ABA and state bar associations. Judge Martha Craig Daughtrey, now a member of the Sixth Circuit Court of Appeals and previously a member of the Supreme Court of Tennessee, served as Chair of the Judicial Administration Division several years ago. Judge Jean Greene, an administrative law judge, also served as Chair of the Division. I am currently chair-elect of that division and previously served as Chair of the Appellate Judges Conference. My successor will be Judge Norma Shapiro of the United States District Court for the Eastern District of Pennsylvania. The Appellate Judges Conference is currently chaired by Justice Linda Neuman of the Supreme Court of Iowa. Judge Zeta Weinshienk of the District Court of Colorado is the current chair of the Conference of Federal Trial Judges. These women, and the numerous others who are active in the conferences, sections, and divisions of the ABA, are contributing important judicial voices to the deliberations of the ABA and adding diverse perspectives to its work.

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1. For example, in 1991 I served on the Appellate Judges Conference Commission on Judicial Participation in the ABA, which recommended that judges not serve as officers or on the Board of Governors of the ABA. *See Around the ABA: Judicial Participation in the ABA*, A.B.A. J., Jan. 1992, at 86.

One of my favorite examples of the outstanding leadership of women judges is in the Federal Judges Association. This Association considers and promotes a wide array of issues that directly affect federal judges in their employment. For two consecutive terms the President of the Federal Judges Association was a woman. Judge Betty Fletcher of the Ninth Circuit and Judge Diana Murphy, currently on the Eighth Circuit Court of Appeals and formerly on the District Court in Minnesota, provided exceedingly effective leadership during crucial times. While I was testifying before congressional committees on behalf of the Judicial Conference, Judge Fletcher or Judge Murphy testified on behalf of the Federal Judges Association. I confess that at times I found it humorous that the two representatives of the federal judiciary before Congress on those occasions were both women. I wondered whether members of Congress got a skewed view of the demographic make up of the federal judiciary. Both Judge Fletcher and Judge Murphy were effective spokespersons for their colleagues: knowledgeable advocates who were thoughtful and sensitive to the concerns of Congress.

This litany of recognition of the women judges in leadership positions unfortunately omits many people who deserve recognition. Worse yet, it may mislead by somehow implying that women are in these leadership positions to the exclusion of men. That is certainly not the case. My purpose in singling out a few of the many women who are making a difference in the judiciary is to point out that women have moved rapidly into positions of importance, power, and influence in the judiciary of this country. The result is that the face of the judiciary looks quite different to those of us who are part of it and to those who observe us, either from the bar or from within the myriad of organizations to which we belong. It also underscores the point that a young woman today is witness to a host of patterns of activities and life-styles of women who are judges that were largely absent from the scene twenty-five years ago.

#### IV. DOES IT MAKE A DIFFERENCE?

The question necessarily raised by this self-serving and highly biased recognition of women leaders in the judiciary is: Has it made

any difference? Or, put another way, has the rapid introduction of women into leadership positions in the judiciary had a substantive or stylistic effect on the work of the judiciary? Analytical or carefully studied answers to those questions are probably premature. I leave those analyses to scholars who have the proper analytical tools and skills to objectively evaluate the data.<sup>2</sup> I readily admit that this Essay does not focus on the objective nor does it attempt to be analytical. Instead, I offer only my anecdotal observations.

I doubt that the increase in numbers of women in the judiciary, and particularly in leadership positions in the judiciary, has affected substantive law in any significant way that would not otherwise have occurred. Society itself has focused on many of the issues that are of great importance to women. Women judges are no exception. We, along with the rest of society, are concerned about discrimination in the workplace, sexual harassment, children's issues, and the myriad of other legal issues that impact the women of the nation and the world. I do not think this distinguishes us from our male colleagues. All of the women judges I know are judges first. Accordingly, they place their personal preferences, beliefs, priorities, and inclinations at the doors of their chambers and courtrooms.

That is as it should be. Every judge must, to the fullest extent possible, base her decisionmaking upon the carefully-restricted set of constitutional principles, statutes, regulations, and case precedents that are appropriate in application to the case before her. The case or controversy restriction, and all of the law relevant to that case or controversy, is exactly the same for all judges regardless of their gender or other personal characteristics. Nevertheless, women judges bring to the bench and to leadership positions different life experiences than do their male counterparts. Even the most carefully restrained judge sees a case through the lens of her own eye. Nonetheless, I have never seen a case that I thought I looked at differently because of my gender than did my male colleagues on the panel. Similarly, I have sat on panels with all women judges and never thought the outcome or the delib-

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2. See, e.g., Sue Davis et al., *Voting Behavior and Gender on the U.S. Court of Appeals*, 77 JUDICATURE 129 (1993).

erations were affected one iota by that fact. Different life experiences of men and women, and indeed of people of quite varying backgrounds and interests, bring to the decisionmaking process differing perspectives. I do not think that these perspectives are necessarily gender-based. They are experience-based and they, in my opinion, simply add qualitatively to the robust and full consideration of a case. In fairness, I should probably also say that I have never participated in a case conference in which I was listened to more carefully or deferred to because I was a woman. My experience is that the judiciary is a powerful levelling force. I jest with friends in other professions that I finally got the job where I am truly equal. My salary is the same as the men's, my office is exactly the same size, my vote counts as much as theirs — but no more — and we all sit at the same table considering the same case at the same time. Substantively, therefore, I see no perceptible difference in the adjudicating function.

Our scholarship and writing outside the context of cases may have some substantive differences. I point with respect and admiration to the work of Justice Ruth Bader Ginsburg both before and after she came to the bench on matters of particular importance to women.<sup>3</sup> Although not as visible, numerous other women judges take an active role in writing about the role of women in the legal profession and laws as they relate to women generally.<sup>4</sup> I am aware that a number of women judges have pursued personal scholarship in areas of particular interest to them. For example, I have already pointed to Justice Chris Durham of the Utah Supreme Court, who has focused national attention on the issues related to state constitutions. Another example is Justice Yvonne Kauger of the Oklahoma Supreme Court, who has been one of the primary moving forces behind an annual symposium in Oklahoma focusing on Indian tribal sovereignty and the relationship between tribal

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3. See, e.g., Ruth Bader Ginsburg, *The Progression of Women in the Law*, 28 VAL. U. L. REV. 1161 (1994); Ruth Bader Ginsburg, *Remarks for George Mason University School of Law Graduation — May 22, 1993*, 2 GEO. MASON INDEP. L. REV. 1 (1993); Ruth Bader Ginsburg, *Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade*, 63 N.C. L. REV. 375 (1985).

4. See, e.g., Kathryn H. Vratil, *Notes from the Bench*, 42 KAN. L. REV. 1 (1993); Patricia McGowan Wald, *Address to Seton Hall Univ. School of Law — April 15, 1993*, 24 SETON HALL L. REV. 552 (1993).

and federal law. The contributions that women judges are making to these legal issues are an important part of the leadership role they are playing substantively.

Whether women judges have had a stylistic effect on the work of the judiciary is more difficult for me to answer. At the same time that many women have come into the judiciary, the number of younger people — both men and women — increased in the ranks of judges throughout the nation.<sup>5</sup> Thus, for this younger subset of judges, family and children's issues have become matters of great importance. The same concerns that haunt many professionals — such as long work weeks, travel, expectations of spouses, and preservation of time for marriage and family — are issues of extraordinary importance to judges whose life work often resides somewhere in the interstices of their brains as well as at their offices. It is very difficult to leave behind the responsibilities, concerns, and pressures associated with making decisions that affect profoundly people's lives and fortunes.

I like to think that the advent of women in leadership positions in the judiciary has promoted a more open discussion of these issues among judges. I know for certain that when women judges get together these issues are frequently discussed. My perception is that for women these issues are natural topics of conversations. I could recite a number of examples of meetings or court sittings during which I shared family concerns with my female colleagues and found the most responsive and thoughtful support in their reactions. Again, I do not rely on statistics. I know only that there are hundreds of women in the judiciary today who are actively parenting, caring for aging parents, and handling household responsibilities. Many of our male colleagues have the same responsibilities. When women discuss these issues our male colleagues seem more open about them as well. No doubt some of this openness is related to the substantial number of men in the judiciary who are married to women with active careers of their own.

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5. See, e.g., Sheldon Goldman & Matthew D. Saronson, *Clinton's Nontraditional Judges: Creating A More Representative Bench*, 78 JUDICATURE 68 (1994); Sheldon Goldman, *Bush's Judicial Legacy: The Final Imprint*, 76 JUDICATURE 282 (1993).

Regardless of whether women judges can be credited, it is clear to me that the judiciary is now a place where family concerns and appropriate balances between professional and personal lives are given thoughtful and full consideration. For example, the Tenth Circuit Judicial Conference is carefully planned with an emphasis on the families of judges and other participants, an opportunity for children’s activities, and a purposeful effort to include spouses in all aspects of substantive programming. The hot topic for all conventions and conferences — and judicial conferences are no exception — is whether to have a spouses’ program. Spouses of women judges show little interest in some of the traditional topics at those programs. Our circuit, and I believe many others, has moved towards full involvement of spouses in the substantive programming of the Conference.

Along with our substantive discussions, my women friends in the judiciary and I share an enormous amount of personal information and support. Judge Rya Zobel loves to remind me of the time when we were in an extremely important meeting during which I ran out at every coffee break to purchase favors for one of my daughter’s birthday parties, and then had to ask the convener of the meeting to change the agenda so that I could catch an airplane in order to return home in time to greet fourteen little girls at my house for the birthday party. These experiences are shared by professional parents everywhere. I suspect that litigants before our benches might be reassured and amused to know that occasionally we must rearrange the decisionmaking machinery of the courts to accommodate a small child’s birthday party or similar family responsibilities.

I believe that women judges play an important role by showing the public that women can be extraordinary achievers in their professional lives and still share many of the common human concerns of those who appear before our courts and are affected by our decisions. Among the most poignant examples of this is Justice Sandra Day O’Connor’s recent courageous and open discussion of her experience with breast cancer. Justice O’Connor was one of the highest placed and most respected women in the nation to publicly share one of the fears and nightmares that bind women to each other. Her statements were powerful. They moved the women of this nation forward in the effort to encourage early detection and treatment of breast cancer. That is a



service no man could have performed and one that affected profoundly the women of the nation.

In a similar way, the statements of both Justice O'Connor and Justice Ginsburg regarding their professional histories and their difficult struggles to enter employment in the legal profession have encouraged all of us, and underscored the recent history of our movement into leadership positions in the profession. I speculate that it is energizing to young women entering the profession to compare their experiences with those described by the Justices. It is also a constant reminder of the importance of protecting the opportunities that have opened for us.

All of the women judges I know, at least to some extent, are impelled by a concern that we stay as actively involved in as many facets of our community as our judicial responsibilities will allow so that young women at all levels can observe our varying styles, witness firsthand the patterns that we have established for ourselves, and see what is possible for them. Thus, women judges are involved in their children's schools, their churches, service clubs, and the hundreds of activities that occupy men and women across this country. For many of us, it is a part of our responsibility to demonstrate to our children and their peers the potential for achievement and the rewards and sacrifices attendant to those achievements.

I also like to think that the involvement of women in the judiciary has hastened the process of bringing a more gender-neutral approach to the language of the judiciary. The struggle of adapting the English language to gender neutrality is beyond the scope of this Essay. Nonetheless, there are some very easy adjustments that can be made in opinions, discussions with lawyers, and other interactions with the court that promote perceptions of inclusiveness in the judicial process. I have observed many thoughtful reminders in opinion drafts, and in conversations relating to draft opinions, that the use of different words would reduce the exclusionary potential of the language of the opinion.

The stereotypes of the judge as a male clearly persist in the language that lawyers use in briefs and, particularly, in addressing the bench. I suspect that none of us are aware how pervasively the word "sir" is used in addressing persons with authority. Hardly a day of oral argument goes by when an attorney in his nervousness does not ad-

dress me, or one of my female colleagues, as "Sir." Normally they realize the error immediately as the word slips from their tongues. That is obvious from the stricken expression on their faces. Nevertheless, the gender-neutral reference "Your Honor" or "Judge" takes on special importance in this context. If nothing else, it alleviates the embarrassment of the wrong reference and the flustered apologies that ensue.

I readily admit that there may be a few frivolous stylistic differences between women judges and their male colleagues. One of the most notable has to do with the degree to which we feel slightly robbed of our personalities by the requirements of the robe. Some women, although certainly not all, take a certain amount of pleasure in the wide variety of appropriate professional dress that we can select for our everyday lives. I am one of those people who loves to finger beautiful fabrics and to dress on a particular day according to the mood of the moment. Not infrequently, women judges remark about the degree to which the wearing of the robe accomplishes its intended purpose: blocking out the personality underneath it. Thus, I have heard on numerous occasions women judges joking among themselves about the critical importance they ascribe to what they wear at their necks. Similarly, jewelry depicting legal symbols takes on a special importance for those of us who like such frivolous notions. One of my colleagues on the Seventh Circuit has discovered a jewelry maker who makes beautiful beaded scales-of-justice pins. Once introduced to these lovely works of art, I have indulged myself and passed the name and address of the artisan to several other women judges who expressed an interest in the pins.

Men and women judges do not always differ in stereotypically predictable ways. I remember clearly the lament of my colleague Judge Stephanie Seymour following an incident shortly after my appointment to the court. The members of the court were gathered at a social hour that was completely dominated by a spirited discussion of college basketball. As the debate wound down, Judge Seymour looked at me wistfully and said that she had had high hopes that the social hour discussions would change somewhat in content with the introduction of another woman on the court. Instead, she got a fanatic Kansas Jayhawk basketball fan who delights in the opportunity to talk hoops!

## V. "W" STORIES

Colloquially, we often refer to anecdotes of personal experience as "war stories." I have no doubt that this phrase derives from the male experience. I like to refer to stories that are peculiar to women as "W" stories: not war, but women's stories. Women judges certainly have their share of them and I could have devoted this entire Essay to both serious and humorous anecdotes best described as women's stories. Every judge — and, I suspect, many women who are mayors, elected representatives, cabinet members and the like — has received numerous envelopes on which it is clear that the addressing of the envelope was a tortured exercise. The effort to somehow get "The Honorable" before the female name, and leave it out with respect to the male name of the spouse or significant other, seems almost more than some pens can accomplish. The order of the names is one dilemma; the question of how to use the first names is another; the question of whether the last name should be repeated in the case of married couples with the same last name is another question. I suspect that every woman judge has had the occasional envelope that had a scratched out version of an original thought which was discarded. Though looked at rationally, this problem of addressing an "Honorable" and her "not Honorable" companion should not be so difficult. My impression is that the laborious problems that addressers encounter result more from lack of practice than from true difficulty. The same is true in trying to use the female pronoun instead of the male pronoun as a generic reference.

One of my favorite "W" stories was the day that I first sat on a panel that was composed entirely of women. Several years ago, Judge Seymour and I sat on a panel with Judge Zita Weinshienk of the District of Colorado. It was the first time an all-female bench had been empaneled in the Tenth Circuit. Unbeknownst to us, reporters were in the room that day. In the newspaper report the following day, the attorneys who appeared before us had been interviewed and were reported to have exclaimed, in apparent surprise, that we were very well prepared, we asked good questions, and that we had read the briefs. The reporting of those comments was humorous to me and to the other judges. It seemed to us that they were simply describing a well prepared bench and that the comments went not at all to our gender. The

humorous part was that it was recorded in reference to the historic event of three women sitting together.

Another "W" story worth noting here is the occasion in August 1994, when Justice Ruth Bader Ginsburg came to the Tenth Circuit as our Circuit Justice. She and Chief Judge Seymour were honored, along with all of the members of the federal and state judiciaries in Colorado, at a reception at the Women's Bank in Denver. I have a photograph on my credenza that shows twenty women judges, both state and federal, from the Denver area. The picture is valuable to me not only because many of my friends in the judiciary are in it, but also because of the sheer numbers of judges in the photograph. Even more impressive to me was the size of the gathering itself. I had not given much thought to how many people would attend such a gathering, and was astonished when I walked into the central atrium of the Women's Bank and saw several hundred women lawyers and public officials gathered for that occasion. This is a "W" story that warms the heart and tells a new story. The story is something about new patterns and new ways of carrying out professional responsibilities. It is about styles that differ greatly depending upon the interests, talents, and life experiences of the individuals. It is about a judiciary that carries on its shoulders responsibilities that transcend gender differences. It is, I submit, an affirmation that "judge" is a gender-neutral word.

